

Wood, K  
Part 1

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FENIX SECURITIES, LLC

Petitioner,

v.

AXOS CLEARING LLC (FORMERLY  
KNOWN AS COR CLEARING LLC),

Respondent.

**19 CV 03331**  
Civil Action No. 19 CV 03331

**ORDER TO SHOW CAUSE FOR  
TEMPORARY RESTRAINING  
ORDER; PRELIMINARY  
INJUNCTION**

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 4/15/19

Upon the accompanying declaration of Julian Galvez, sworn to on April 15, 2019, the declaration of Peter Ligh, sworn to on April 15, 2019, together with the exhibits annexed thereto; the Petition; and, Plaintiff's Memorandum of Law, it is

ORDERED, that Defendant Axos Clearing LLC (formerly known as COR Clearing LLC) ("Axos") show cause before a motion term of this Court, at Room 26A, United States Courthouse, 500 Pearl Street, in the City, County and State of New York, on April 16, 2019, at 4:00 o'clock in the after noon thereof, or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 65 of the Federal Rules of Civil Procedure granting the following relief until such time as the Court holds a hearing and issues a final decision on Fenix Securities, LLC's motion for Preliminary Injunction:

Enjoining and restraining Axos, and its agents, employees, representatives, and all persons acting in concert or participation with them, from engaging in, committing or performing, directly or indirectly, any and all of the following acts:

- a. terminating (or deeming terminated) the Fully Disclosed Clearing Agreement, dated October 15, 2015, as amended on March 1, 2018, (the "FDCA");

- b. limiting Fenix and its customers to only closing transactions effective market open April 15, 2019;
- c. taking actions pursuant to Section 10.7 or Section 9 (or any other provision of the FDCA that is triggered upon a termination);
- d. engaging in any other actions by which Axos may seek to shirk its obligations to provide the Services (as defined within the parties' agreement) under the FDCA, including, but not limited to exercising its purported rights under Section 2.3 of the FDCA;
- e. preventing Fenix's withdrawal of its Accounts, including, but not limited to Margin Acct No. 1196-0488;
- f. deviating from its ordinary and normal course of conduct with respect to providing the Services; and
- g. granting such other and further relief as may be just and proper.

ORDERED that any further papers in opposition to the application for a preliminary

injunction be filed with the Court by ECF, on or before April 16, 2019, <sup>at 12:00 noon</sup>

ORDERED that any requirement to post security is waived, [~~OR~~ that security is required] <sup>in the amount of</sup>           ; and it is further

ORDERED that email service of a copy of this order and its supporting papers upon

Axos or its counsel on or before 5:00pm, 4-15, 2019, shall be deemed good and sufficient service thereof.

ENTER:

Michael M. Wood

United States District Judge

*I find that it clearly appears from specific facts shown by affidavit or by verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (2) I find that applicant's attorney certified to the Court in writing the efforts, if any, which have been made to give the notice and to serve supporting the claim that notice should not be required.*